

Fuel Rods Waiting Offshore; Energy Secretary Delays Delivery

BY SUSAN USHER

Two ships were still waiting off Brunswick County's coast Tuesday to off load their cargo of 153 spent fuel rods from European research reactors at the Sunny Point Military Ocean Terminal docks near Southport.

"They are not here right now, but they are out there somewhere," Brunswick County Emergency Management Coordinator Cecil Logan said Tuesday morning. "They were not being unloaded today or yesterday, though people thought they were. We know when the fuel will be here and where it is going."

Late Monday U.S. Secretary of Energy Hazel O'Leary decided to delay arrival of the shipments for a "short time" as a "courtesy" to the state of South Carolina so that its bid to stop the shipments could be heard by the full U.S. 4th Circuit Court of Appeals in Richmond, Va., DOE spokesman Jayne Brady said Tuesday.

Tuesday afternoon, after news reports that the vessels delivering the fuel rods were off the mouth of the Cape Fear River, Congressman Charlie Rose asked O'Leary to move the ships farther offshore. According to a news release, O'Leary assured Rose that "if the court has not rendered a decision by tomorrow (Wednesday)

afternoon she will order the ships to international waters."

"This mess we find ourselves in now is the reason I fought the importation of these rods from the beginning," said Rose.

Last Friday a 4th Circuit Court of Appeals panel in Charlotte overturned a lower court stay blocking acceptance of the fuel rods. It said it would allow the first shipment of fuel elements to enter the country while a lower court resolves a dispute between the state of South Carolina and the U.S. Department of Energy.

South Carolina filed a motion Monday asking the full 4th Circuit to consider the state's challenge. "We don't know if it can be heard in time because we don't know where the ships are or when they will arrive," Julie Horton, public information director with the South Carolina Attorney General's office, said prior to O'Leary's decision later that day.

Armed with more advance notice than required by federal regulations, Logan put Brunswick County's radiological emergency response team on standby for one week as of Monday, he said. Once the shipments are out of Brunswick County, the team will remain available to assist similar units elsewhere along the rail route if needed.

"They are trained to identify, isolate and

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—Elaine Wathen

call for help," said Logan. He said DOE's response team and the State Highway Patrol's security team are also both in place in anticipation of the shipment.

Before arriving at the Sunny Point docks the casks will be checked by a radiological assessment team. Then the three casks containing the rods are to be shipped by train under heavy security measures to the DOE's Savannah River Site near Aiken, S.C., traveling through either Pembroke or Monroe

before turning south. The casks are under armed guard and are inside shipping containers that will be nailed to rail cars. The DOE will not confirm arrival of the shipments until 10 days after the casks reach their destination.

It isn't the first time nor the last that shipments of this type have crossed North Carolina on their way to the Savannah River Site, but it is the first time DOE has been required to go through an environmental assessment process involving the public. A coalition of environmental organizations is protesting movement of the cargo through the state and state agencies have also raised objections.

"Shipments of this same type of nuclear waste have been going through the state for years," Elaine Wathen, a planner with the N.C. Department of Emergency Management said last Thursday. "We've never had any problems. I think the difference is that people weren't aware of the movement. They haven't noticed the trucks on interstate highway with the radioactive placards," said Wathen. "Now they are aware and that has generated more concern."

While crossing North Carolina by rail, the rods will be under DOE's ownership. Under the Price-Anderson Act, any incident that might occur would have \$7.2 billion in lia-

bility coverage provided through an nuclear industry-funded insurance pool.

In accepting the rods, the United States is attempting to honor and reactivate a policy commitment made several decades ago as part of an international effort to keep weapons-grade uranium off the world market. As part of the same agreement, the U.S. has also helped the reactor operators convert to using a lower-enriched uranium fuel.

Some of the research reactors that received the fuel from the United States have run out of on-site storage space, prompting the U.S. to initiate an "urgent relief" effort that would bring about 389 rods into this country before a decision was made regarding the potential environmental impact of future shipments.

South Carolina is suing to block shipment of rods under the "urgent relief" plan, saying no shipments should be made until a thorough environmental study is made. The DOE has finished a less complex environmental study, which says its Savannah River Site near Aiken, S.C., is adequate to receive the rods for storage.

Last week the appeals court said South Carolina failed to show that its concerns about threats to the environment outweighed the United State's foreign policy interests in accepting return of the spent fuel.



LISTENING to Superior Court Judge Jack Thompson are the defendant and attorneys in the first-degree murder trial of Frank Ford. Pictured (from left) are Assistant District Attorneys Lee Bollinger and Rick Green, Defense Attorney James Payne, Frank Ford and Defense Attorney Michael Ramos.

Plea Bargain Gets Defendant Ford Life Sentence Plus 20 Years

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others who were at the trailer park piled into two cars and headed for Brown's home, where Ford said he was "going to smoke a white dude." Davis was black, as is Ford and eight of his nine accomplices.

As the two cars drove up Midway Road toward Brown's home, they spotted Davis coming the other way. The "gang of 10" turned around and followed Davis for about a half mile to his trailer, Bollinger said.

Davis had just pulled into his driveway when Ford, Byron Henry Knowles and Terrance Laquinn Jones approached the car and began "roughing him up," Bollinger said. As they dragged Davis out, he broke free and ran toward his front door. Ford fired a .380-caliber pistol once and missed. Davis made it another

15 to 20 feet when he was hit in the back with the second bullet.

As Davis lay mortally wounded on the ground, Knowles began "chopping him with a machete" while Jones "banged his head into the dirt," according to Bollinger.

After the killing, Knowles fled to the Bahamas, where his father lives. He has been indicted on numerous charges including first-degree murder. Prosecutors have been negotiating with his attorney in hopes of encouraging Knowles to return to the United States voluntarily, but without success, Bollinger said. He expects to begin extradition proceedings soon.

Jones remains in jail on charges that include first-degree murder, conspiracy and kidnapping. A trial date in his case has not been set.

The seven other defendants, most-

ly teenagers, had "varying levels of involvement" in the killing, Bollinger said. All have pleaded no contest to a conspiracy charged in exchange for their agreement to testify against the others.

In negotiating their plea arrangements, Bollinger said all of them "knew the purpose" of leaving the trailer park with Ford. But several claimed to have tried to get away when they realized the seriousness of what was about to happen. Bollinger said he asked each one what they learned from their experience.

"The all told me something to the effect that they had learned to be more careful about being in a place where trouble was brewing," Bollinger said. "That if you're going to hang around trouble, eventually it's going to find you."

Island Said To Qualify As Coastal Complex Natural Area, But May Not Become One

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species; good habitat for other species; and aesthetic quality.

The island's "degree of uniqueness" is a question for discussion, according to agency Executive Director Roger Schechter.

At the CRC's July meeting, members overrode a staff position that existing protections for the island were adequate, short of acquisition to preserve the island, and directed staff to proceed with a detailed review based on an inventory of the island's natural resources and to draft proposed use standards. Six AECs are already in place at Bird Island, generally protecting property and lives rather than plants and animals and their habitat, or the island's natural beauty.

Price's consulting engineer, John Ryder of Century/von Oesen of Wilmington objected to the seventh AEC as "grossly redundant" given existing federal, state and local regulation of the island.

The commission has said it wanted to be ready to act if it feels existing state and local protective measures are inadequate, or if those regulations change.

Sunset Beach, after 1½ years of study, established a conservation reserve zoning district a year ago that the portion of Bird Island within its jurisdiction. The zoning limits development to one single-family home per acre of "net buildable area," which would allow about 31 homes to be constructed on the island. Ryder said those would be valued in the \$1 million to \$2.5 million range.

At a workshop last Thursday, Sunset Beach's town council and planning board were considering a request from Price to ease the zoning restrictions to allow at least 50 homes to be built.

The balance of the North Carolina property falls under Brunswick County's jurisdiction and is zoned rural (RU), which offers very few restrictions on us. The western tip of

the island complex juts into Horry County, S.C.

From a planning standpoint, Brunswick County Planning Director Wade Horne said after the CRC meeting, Bird Island "is just another barrier island." But from an aesthetic point of view he believes it is unique as an undeveloped barrier island and should be preserved through public acquisition.

While Horne is concerned about what a seventh AEC overlay might accomplish, he said he plans to recommend that, if use standards are set, the state consider the need to regulate boats and day visitors to the island.

Average Temps, Rainfall Expected

Look for warm days and good sleeping weather at night for the next few days, says Jackson Canady, Shallotte Point weather-watcher.

For the period Sept. 20-26, Canady reports a high of 86 degrees, reached on the 25th, and a low of 53 degrees on the night of the 23rd. The daily average high was 80, with a nightly average low of 63 to make an average temperature of 71 degrees, "just about normal" for the period.

Canady measured 1.4 inches of rainfall.

His forecast calls for average temperatures and rainfall, with temps in the lower 60s at night and lower 80s during the days, with about half an inch of rainfall.

Lawsuit Seeks To Overturn County's Anti-Mining Law

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the expertise of people who had adopted similar ordinances and were able to defend them in court. We got the advice of counsel and enacted an ordinance to protect the environmental situation down there."

According to state statute, commissioners have the authority to enact laws to protect the health, safety and welfare of its citizens, he said. "That's the meat of it."

The ordinance doesn't prevent Martin Marietta from mining its property, but prohibits certain kinds of mining and allows others. "They can mine if they want to," he said. "It just may not be a profitable as they would like it to be."

"I don't see how we've caused them any harm if they haven't gotten any permits from the state to mine."

Quinn said Brunswick County modeled its ordinance after language used in an ordinance that stood up to a challenge in the U.S. Supreme Court.

A North Carolina county changed its zoning, forcing closure of an existing mine. According to Quinn, the court ruled that there is no contract between individuals and a county or municipality that prohibits a change in zoning to protect the "health, safety and welfare" of the public.

In the suit Martin Marietta claims it first made county commissioners aware of its plans to establish the quarry and the methods it would use as early as July 1991. Company personnel met privately with individual commissioners, took Brunswick County Economic Development Commission members on tours of its quarries at Rocky Point and Castle Hayne and updated county officials on its plans periodically over several years.

At the time of initial contact, the county had no zoning ordinance, only a land use plan that would allow mining on the tract in question. As the county proposed and then drafted a zoning ordinance, the suit states that the county was not only "aware of Martin Marietta's plans" to develop the property as a quarry, but that the County Planner (then John Harvey) gave Martin Marietta assurances that, under the pending zoning ordinance, the property would be zoned "heavy manufacturing" and that mining and quarrying would be allowed without need of a special use permit. That was the way the property was zoned.

Martin Marietta proceeded, on the basis of its contacts with the county, to continue purchasing and leasing property along N.C. 133/N.C. 87 between CP&L's Brunswick Nuclear Plant and the Sunny Point Military Ocean Terminal until by mid-1993 it owned 1,247 acres with an option on another 107.4 acres. It also hired a series of consultants, obtained county septic tank and building permit, and began applying for a state mining permit.

Opposition to the project began emerging publicly in October 1993, after Martin Marietta held a press conference and a private meeting with neighboring property owners.

Martin Marietta contends its common law and statutory rights were violated by the county and that the

county failed to give proper published public notice or notice to Martin Marietta in advance of the two meetings at which the ordinance was considered (Dec. 29 and Jan. 4), and that Commissioners Don Warren,

Wayland Vereen and Tom Rabon knew the ordinance was unlawful and that it violated Martin Marietta's rights when they voted to adopt it.

Commissioners Donald Shaw and Jerry Jones, who were members of the previous board that had earlier contact with Martin Marietta, did not vote for the ordinance.

If motions for a declaratory judgment or injunction fail, the suit specifically asks the court to:

- find that the county pre-empted state and federal laws in attempting to regulate areas of extraction of minerals by mining and safety conditions related to the production of nuclear energy, areas already regulated by state and federal law respectively;

- find the ordinance singled out Martin Marietta for "disparate treatment" and "disproportionally burdens" the company;

- determine that the county's action in effect was a "taking" of private property for public use without going through the proper procedures and without just compensation;

- then force Brunswick County to exercise its power of eminent domain or "taking" and pay for the property; and

- award damages and for the county to pay the costs of the legal action.

In response to concerns raised primarily by the Brunswick County Mining Awareness Committee, a citizens' group organized to block the quarry from the area, commissioners adopted the ordinance banning this type of mining as "detrimental to the health, safety and general welfare of Brunswick County citizens." The ordinance states that such mining could cause structural damage to the facilities or railways of the nuclear plant or military terminal; disturbance of the geological formations could cause sinkholes that in turn could result in damage; and could result in saltwater intrusion of the Castle Hayne aquifer.

Martin Marietta claims in the suit that the ordinance was adopted though there was "no competent, material evidence before county commissioners to support that." Rather, it claims on "information and belief" that opposition to the project among commissioners was "prompted solely by the unfounded and unsubstantiated fears of local citizens that the project might be dangerous to the public."

Warren said he agreed to support the ordinance after CP&L advised that sink holes caused by dewatering could endanger power lines that provide emergency power to pumps that cool the plant's two reactors, and after the military terminal said tremors caused by blasting could endanger munitions shipments hauled on its railroad tracks.

"That was the final blow," he said, considering the "multi-million-dollar ramifications."

"That's what made up my mind. I don't think we could afford to do anything at that end of the county that could cause that nuclear plant to shut down."

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